

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION TO PREVENT  
DEFENDANT, BAC HOME LOANS SERVICING, L.P., FROM FORECLOSING ON  
THEIR MORTGAGES**

Plaintiff, Carmen Fox ("Ms. Fox") respectfully requests that a preliminary injunction be granted on behalf of herself and a provisional class of Massachusetts homeowners to prevent Defendant, BAC Home Loans Servicing, L.P., ("BAC" or "Defendant") from foreclosing on their mortgages until a decision on the merits has been made in this case as to whether BAC is contractually or otherwise obligated to provide them with permanent loan modifications.

Plaintiffs in this case allege that Defendant failed to honor its agreements with borrowers to modify mortgages and prevent foreclosures under the United States Treasury's Home Affordable Modification Program ("HAMP"). Defendant has failed to provide borrowers who complied with their Trial Payment Plan ("TPP") Agreements either a Home Affordable Modification Agreement to date, or a written denial and explanation of their eligibility on or

before the Modification Effective Date identified in the TPP Agreement. As a result, Ms. Fox contends that Massachusetts homeowners did not have an opportunity to cure their delinquencies, pay their mortgage loans, and save their homes.

In support of this motion, Ms. Fox relies on the accompanying memorandum in support, as well as her Affidavit filed simultaneously herewith. She also relies on the Declaration of Kevin Costello and its accompanying exhibits, as well as Plaintiffs' Provisional Motion for Class Certification, and its accompanying memorandum. As described in these papers, Ms. Fox and the class she seeks to represent meet all of the requirements for preliminary injunctive relief.

Respectfully Submitted,  
On behalf of Carmen Fox and all  
others similarly situated,

By her attorneys,

/s/ Charles Delbaum  
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Dated: September 7, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic File (NEF) and paper copies will be sent to those indicated as non-registered participants on September 7, 2010.

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*/s/ Charles Delbaum*  
Charles Delbaum

**LOCAL RULE 7.1(A)(2) CERTIFICATE**

I, Charles Delbaum, hereby certify pursuant to Local Rule 7.1(A)(2) that Plaintiffs' counsel consulted with counsel for Defendant before filing the foregoing motion. Defendant opposes the relief sought in this motion.

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*/s/ Charles Delbaum*  
Charles Delbaum